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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,872

02/09/2006

Joseph C. Kurian

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02/06/2008

PEARNE & GORDON LLP

1801 EAST 9TH STREET

SUITE 1200

CLEVELAND, OH 44114-3108

EXAMINER

HOLMES, MICHAEL B

ART UNIT

PAPER NUMBER

2129

MAIL DATE

DELIVERY MODE

02/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,872

Applicant(s)

KURIAN ET AL.

Examiner

Michael B. Holmes

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE (3) MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

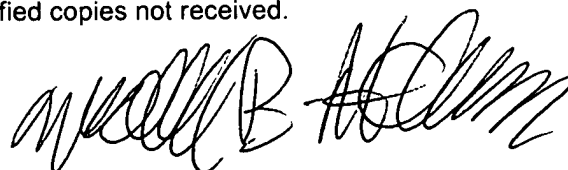
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 05/05/2005.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.



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Examiner's Detailed Office Action

1. This Office Action is responsive to communication, filed 06/09/2006.

Information Disclosure Statement

2. Applicant is respectfully remind of the Duty to disclose 37 C.F.R. 1.56 all pertinent information and material pertaining to the patentability of applicant's claimed invention, by continuing to submitting in a timely manner PTO-1449, Information Disclosure Statement (IDS) with the filing of applicant's of application or thereafter.

Drawings

3. The formal drawings submitted have been reviewed by the Office of Initial Patent Examination (OIPE) and/or the USPTO Office of Draftperson's Patent Drawings Review.

Specification

4. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is required in correcting any errors of which applicant may become aware in the specification. Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. The invention as disclosed in claims 1-15 are rejected under 35 U.S.C. § 101 as being non-statutory subject matter. *see In re Comiskey*, Case No. 2006-1286, at 8, 16-21, (Fed. Cir., September 20, 2007). “Only if the requirements of § 101 are satisfied is the inventor allowed to pass through to the other requirements for patentability, such as novelty under § 102 and, non-obviousness under § 103.” “Moreover, ... when an abstract concept has no claimed practical application, it is not patentable.”

7. *No preemption is permitted* i.e., when a claim is so broad that it reads on both statutory and nonstatutory subject matter, *it must be amended*. A claim that recites a computer that solely calculates a mathematical formula is not statutory. In other words, one may not patent a process that comprises every “substantial practical application” of an abstract idea, because such a patent in “practical effect would be a patent on the [abstract idea] itself.” Regarding claims 1-15 i.e., “intelligent data management system” would in fact cover virtually all intelligent, adaptable or evolving data management systems. Nothing is specified in the claims to limit the invention to a particular application e.g., intelligent Budgeting/Financial management planning system, Business Intelligence system, intelligent Energy Risk management system, intelligent storage system, intelligent security system, intelligent property management system, intelligent Investor relationship management system, etc., etc. Without clearly stating in the claim a particular application, it *preempts* all intelligent, adaptable or evolving data management systems. Where as, the

courts have also held that a claim may not preempt ideas, laws of nature or natural phenomena. The concern over preemption was expressed as early as 1852. See Le Roy v. Tatham, 55 U.S. (14 How.) 156, 175 (1852) (“A principle, in the abstract is a fundamental truth; an original cause; a motive; these cannot be patented, as no one can claim in either of them an exclusive right.”); See Funk Bros. Seed Co. v. Kalo Inoculant Co., 333 U.S. 127, 132, 76 USPQ 280, 282 (1948), a practical application i.e., merely manipulating data not tied to the real-world is not patent eligible subject matter, *see In re Warmerdam*, 31 USPQ2d, 1354. Applicant may consider amending the claim language to recite a “display device”, in view of at least some figures depicting computers with display devices would help recite the functional and structural relationship between the descriptive material and the display device.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-15 is/are rejected under 35 U.S.C. 102(b) as being anticipated by

Lawrence et al. (USPN 6,272,481 B1).

Regarding claim 1.

Lawrence et al. describes an intelligent data management system comprising: a database of stored data; a middleware layer having access to the stored data, the middleware layer including: a fuzzy logic knowledge base for generating, updating, or firing fuzzy logic rules; and a fuzzy logic inference engine for processing the stored data guided by the fuzzy logic rules to provide a course of action; and at least one client device for remotely accessing the provided course of action. [see Abstract, C 1, L 13 to C 3, L 18, FIG. 1, C 3, L 42 to C 6, L 14, C 10, L 11 to C 11, L 17, C 15, L 29-40]

Regarding claim 9.

Lawrence et al. describes an intelligent data management method comprising the steps of: (i) accessing stored data; (ii) providing a course of action using the accessed data by: a) generating, updating, or firing fuzzy logic rules; and b) processing the stored data using fuzzy logic inference guided by the fuzzy logic rules; and (iii) remotely accessing the provided course of action. [see Abstract, C 1, L 13 to C 3, L 18, FIG. 1, C 3, L 42 to C 6, L 14, C 10, L 11 to C 11, L 17, C 15, L 29-40]

Regarding claim 14.

Lawrence et al. describes an intelligent data management system comprising: a module for accessing stored data; a module for providing a course of action using the accessed data including: a module for generating, updating, or firing fuzzy logic rules; and a module for processing the stored data using fuzzy logic inference guided by the fuzzy logic rules; and a module for remotely accessing the provided course of action. [see Abstract, C 1, L 13 to

C 3, L 18, FIG. 1, C 3, L 42 to C 6, L 14, C 10, L 11 to C 11, L 17, C 15, L 29-40]

Regarding claim 15.

Lawrence et al. describes a computer program product for implementing an intelligent data management method, the computer program product comprising: a computer readable medium for storing machine-executable instructions for use in the execution in a computer of the method, the method including the steps of: accessing stored data; providing a course of action using the accessed data by: generating, updating, or firing fuzzy logic rules; and processing the stored data using fuzzy logic inference guided by the fuzzy logic rules; and remotely accessing the provided course of action. [see Abstract, C 1, L 13 to C 3, L 18, FIG. 1, C 3, L 42 to C 6, L 14, C 10, L 11 to C 11, 17, C 15, L 29-40]

Regarding claim 2-8 & 10-13.

of which, are rejected under the same reasoning as their respective base claim. [see Abstract, C 1, L 13 to C 3, L 18, FIG. 1, C 3, L 42 to C 6, L 14, C 10, L 11 to C 11, L 17, C 15, L 29-40]

Claim Interpretation

10. The claims and only the claims form the metes and bounds of the invention.

“Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Moreover, limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05,

162 USPQ 541,550-551 (CCPA 1969)” (MPEP p 2100-8, c 2,145-48; p 2100-9, c 1,1 1-4).

The Examiner has full latitude to interpret each claim in the broadest reasonable sense. The Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

11. Examiner’s Notes are/if provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the citations are self-explanatory to one skilled in the art and do not need any further explanation. Moreover, the Examiner’s Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently or obviously appropriate.

12. Unless otherwise annotated, as aforementioned, Examiner’s statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent or obviousness prima facie case or statement(s).

Correspondence Information

13. Any inquires concerning this communication or earlier communications from the examiner should be directed to Michael B. Holmes, who may be reached Monday through Friday, between 8:00 a.m. and 5:00 p.m. EST. or via telephone at (571) 272-3686 or facsimile

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transmission (571) 273-3686 or email michael.holmesb@uspto.gov.

If you need to send an Official facsimile transmission, please send it to (571) 273-8300.

If attempts to reach the examiner are unsuccessful the Examiner's Supervisor, David Vincent, may be reached at (571) 272-3080.

Hand-delivered responses should be delivered to the Receptionist @ (Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22313), located on the first floor of the south side of the Randolph Building.

Finally, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Moreover, status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) toll-free @ 1-866-217-9197.

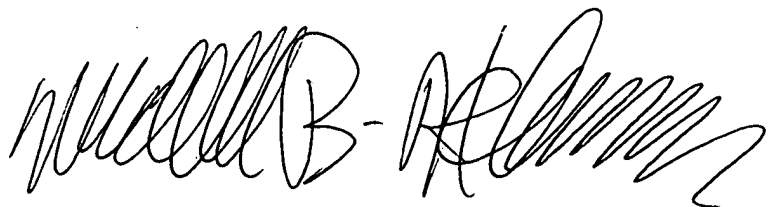
Michael B. Holmes

Patent Examiner
Artificial Intelligence
Art Unit 2121

United States Department of Commerce
Patent & Trademark Office

Wednesday, January 30, 2008

MBH

A handwritten signature in black ink, appearing to read 'Michael B. Holmes', is written over the typed name and title.